

DR2369-1197

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR
ROLLING HILLS SUBDIVISION
CITY OF MACEDONIA, SUMMIT COUNTY, OHIO**

THIS DECLARATION is made as of this 28th day of January, 1997,
by the undersigned, PFR LAND COMPANY, an Ohio Corporation, hereinafter referred to as the
"Developer", in consideration of the mutual promises and covenants herein contained, who has agreed
and does hereby agree to encumber its real estate in the Rolling Hills Subdivision as follows:

WITNESSETH:

WHEREAS, the Developer is the Owner of the real property described in Exhibit "A",
attached hereto and made a part hereof, which real property is commonly known as Rolling Hills
Subdivision, Macedonia, Ohio ("The Properties") and intends for The Properties to be made subject to
this Declaration of Covenants, Conditions, Restrictions and Easements as a residential community; and

WHEREAS, Developer proposes to and does hereby establish for their own benefit and for the
mutual benefit of all future Owners (hereafter defined) or Occupants of The Properties, certain
conditions, restrictions, obligations, and benefits with respect to the use, occupancy, maintenance and
ownership of The Properties, and certain easements, rights and encumbrances in The Properties; and

WHEREAS, Developer has deemed it desirable to create an agency to which should be
delegated and assigned the powers of maintaining, administering and enforcing the covenants and
restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, there has been or will be incorporated under the laws of the State of Ohio, as a
nonprofit corporation, ROLLING HILLS HOMEOWNERS ASSOCIATION, INC., for the purpose of
exercising the functions aforesaid.

NOW, THEREFORE, Developer declares that the real property described in Exhibit "A" is
and shall be held, used, occupied, sold, conveyed or otherwise disposed of subject to the
following covenants, restrictions, easements, obligations and benefits, each of which shall run with The
Properties and inure to the benefit of every Owner thereof and be binding on all parties having any right,
title or interest in The Properties and every part thereof, and their distributees, heirs, executors,
administrators, beneficiaries, successors and assigns, (sometimes referred to as "Covenants and
Restrictions" and sometimes as "Declaration").

**ARTICLE I
DEFINITIONS**

Section 1. The following words when used in this Declaration or any Supplemental
Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "ASSOCIATION" shall mean and refer to the ROLLING HILLS HOMEOWNERS
ASSOCIATION, INC., a nonprofit corporation formed pursuant to the laws of the State of Ohio, together
with its successors and assigns.

TRANSFER NOT NECESSARY

2-26-97
James B. McCarthy County Auditor

TRANSFER NOT NECESSARY
319.202 REV. CODE COMPILED WITH
JAMES B. MCCARTHY
County Auditor

BY
County Auditor

OR2369-1198

(b) "THE PROPERTIES" shall mean and refer to all of the real property described in Exhibit A known as Rolling Hills Subdivision together with all easements benefiting the real property and all appurtenances, with the exception of Sublot 1, which Sublot is specifically excluded from The Properties and is not subject to this Declaration.

(c) "EASEMENT PROPERTIES" shall be all land within the area of the recorded plat for the Subdivision marked "Detention Area" and located on various Lots and the areas designated as a sewer easement. Further, the easement properties shall include the signage easement areas located on the entrance islands in the Rolling Hills Subdivision. Easement Properties shall not include the areas designated on the recorded plat as "Conservation Easement".

(d) "CONSERVATION EASEMENT" shall be all land within the area of the recorded plat for the Subdivision marked "Conservation Easement" and located on various Lots.

(e) "LOT" shall mean and refer to any numbered subplot of land shown upon the recorded subdivision maps of The Properties and intended to be devoted to single-family residential use.

(f) "OWNER" shall mean and refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot or living unit, situated upon The Properties, but notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(g) "MEMBER" shall mean and refer to all those owners who are members of the Association as provided in Article IV hereof.

(h) "DEVELOPER" shall mean PFR Land Company, its successors and assigns.

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration consists of the residential sublots located in the City of Macedonia, County of Summit and State of Ohio which are more particularly described on the Exhibit A attached hereto and made a part hereof.

ARTICLE III RESTRICTIONS

Section 1. All sublots in said Rolling Hills Subdivision shall be known, described and used as residential lots with no dwelling other than a single one-family dwelling with at least two-car attached garage, and such one-family dwelling shall not contain less than:

A. One-Story Dwelling: 2,000 square feet of living space for a one-story dwelling, exclusive of garages, basements, porches and breezeways. One-story dwellings must have a minimum 8/12 pitch roof to fit in with two-story dwellings.

B. Two-Story Dwelling: 2,400 square feet of living space for a two-story dwelling, exclusive of garages, basements, porches and breezeways.

OR2369-1199

Any variance from the square footage requirements above shall be only with the Developer's express written consent.

Section 2. Any structure built must have the prior review and approval of said plans in writing from Developer, its successors or assigns. It is understood that Developer is primarily interested in the exterior elevation of the structure and the size thereof. Building permits will be issued only after the Developer, its successors or assigns, has approved the plans in writing with regard to the elevation and size of the structure to be built.

Section 3. Developer further reserves for itself its successors and assigns the right to permit deviation or grant a variance from, or to change, waive or modify, subject to zoning requirements, any and all of these restrictions if in its sole judgment the development or lack of development of adjoining or adjacent property or topography of the land involved in Developer's sole judgment makes such course necessary or advisable, with the understanding that the Developer herein may assign or relinquish the power herein reserved in the event it decides to do so.

Section 4. Developer reserves easements and rights of ways, within, over, under and across or otherwise shown on the Plat of the Rolling Hills Subdivision and/or parallel with and contiguous to all street lines for the installation, maintenance, repair and operation of underground gas lines if any, electric lines, telephone lines, storm and sanitary sewers, water lines and cable T.V. lines, and additionally, reserves the right to assign the use of said easements and rights of ways, or to grant underground easements for the same to the respective utility companies to service the subdivision. For the protection of underground electric cables, wires, lines and other facilities, where applicable, the grade or contour of the easement premises within said Subdivision shall not hereafter be increased, decreased or otherwise changed or altered without the consent of the appropriate utility company. This shall constitute express notice that any change of grade or contour of the easement premises shall result in damage to said utility lines.

Section 5. The use of simulated fireplace chimneys shall not be permitted within the Rolling Hills Subdivision. All exterior portions of chimneys shall be constructed of brick or stone. Any direct vent chimney and/or furnace shall be vented to the rear of the house only.

Section 6. Each dwelling constructed shall be landscaped with a minimum planting per Lot, from the front property line to the rear of the house, of three trees planted with a minimum caliper of 2" (measured 24 inches above grade) and 18 shrubs. Each tree or shrub existing on the Lot when the dwelling is constructed shall offset one-for-one the required new plantings. In addition to the aforesaid, the Owner of each Lot shall be required to plant street trees per the City of Macedonia requirement. This is a minimum of two (2) trees per Lot, four (4) trees per corner Lot. Street trees must be planted each 40 feet, on the tree lawn. An Owner shall have one year from the date of first occupancy of a dwelling to complete the landscaping.

Section 7. Upon completion of each dwelling in the Subdivision, the Owner shall place at the street, a mailbox on a 6" x 6" post with cross arms. It is recommended that each Owner use a mailbox from the Bacova Mailbox Line, similar in design to the example as shown on Exhibit B attached hereto and made a part hereof. The post office may require that mailboxes be placed on only one side of the street.

Section 8. No building shall be constructed on any Lot unless its external design and color are in harmony with the other buildings of similar use located within The Properties and as required by the City of Macedonia.

OR2369-1201

Section 2. Title to Easement Properties. Title to the Easement Properties shall remain with the Owner of the Lot.

Section 3. Limitations of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) Member's shall not be permitted general access to the Easement Properties.
- (b) The Association through its agent(s) or employees shall have the right to enter the Easement Properties for maintenance purposes only.

ARTICLE VI MANAGEMENT, MAINTENANCE AND MAINTENANCE ASSESSMENTS

Section 1. Management. The Association shall provide the management and supervision for the operation of the Easement Properties. The Association shall maintain such policies, programs and procedures to fully implement this Declaration for the purposes intended and for the benefit of the Members and in so doing may:

- (a) Adopt Rules; and
- (b) Engage employees and agents, including without limitation, attendants, social directors, attorneys, accountants and consultants, maintenance firms, contractors and a managing agent.

Section 2. Maintenance. The Association shall maintain the garden areas around the Rolling Hills Subdivision signs, and the signs. The Association shall not be responsible to mow any grass in the Easement Properties.

In furtherance of maintaining the Detention Area (storm retention area) the Association shall regularly clean out any drainage channel to permit the free flow of water. In the event the Association fails to maintain the unobstructed water flow in the drainage way, any Owner or the City of Macedonia may cause the same to be completed at the Association's sole expense.

Section 3. Obligation of Assessments. Each Lot owner within The Properties hereby covenants, whether or not it shall be so expressed in any deed or other conveyance that the Owner shall be deemed to covenant and agree to pay to the Association: (a) annual assessments or charges; (b) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments together with such interest thereon shall be the personal obligation of the Lot owner at the time when such assessment was made and may upon the filing of an affidavit signed by the President of The Association stating the nonpayment, become a lien on the Lot.

Section 4. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties and in particular for the care, maintenance and improvement of the Easement Properties, and services performed in connection therewith including, but not limited to, repair, replacement and additions thereto and for the cost of labor, equipment, materials, management and supervision thereof.

OR2369-1202

Section 5. Basis and Maximum of Annual Assessments. Until the year beginning January, 1999 the annual assessment shall be Twenty Dollars (\$20.00) per Lot. From and after January 1, 1999 the annual assessment shall be established in each year by vote of the Members as hereinafter provided.

Section 6. Changes in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 5 hereof and for the period therein specified, the Association may in any annual period change the maximum and basis of the assessments for any such period provided that any such changes shall have the assent of two-thirds of the votes of all Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 7. Quorum for any Action Authorized Under Sections 5 and 6. At the meeting called for the purpose of passing assessments, the presence at the meeting of Members, or of proxies, entitled to cast 50% of all the votes of membership shall constitute a quorum.

Section 8. Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of the month) fixed by the Board of Trustees of the Association to be the date of commencement.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement without proration. The assessments for any year, after the first year, shall become due and payable at the time established by the Trustees.

Section 9. Duties of the Board of Trustees. The Board of Trustees of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period of at least 30 days in advance of such date or period and shall at that time prepare a roster of the properties and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association, shall, upon demand at any time, furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment it stated to have been paid.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments and charges created herein: all Lots which do not have a structure built thereon, only until such time as a residence is constructed and initially occupied thereon.

Notwithstanding any provisions herein, no portion of The Properties devoted to dwelling use shall be exempt from said assessments, or charges once there is an occupied residence thereon. Provided, however, any Lot conveyed out of Developer's name shall be subject to the assessments and charges created herein regardless of whether a structure is built thereon, two (2) years from and after the date of conveyance of the Lot to such person, firm or corporation.

Section 11. Developer Manager. Until such time as title to fifty-one percent (51%) of the Lots has been transferred out of Developers name, Developer shall maintain and manage the Easement Properties at Developers sole expense.

0R2369-1203

ARTICLE VII CONSERVATION EASEMENT

Conservation Easement. Subject to the Provisions of this Article VII, the Conservation Easement shall remain predominantly in its present physical condition.

(a) The Conservation Easement is private to each Lot Owner and no person has a right to use the Conservation Easement on any other Owner's Lot.

(b) No culverts or natural drainage ditches are to be filled or diverted.

(c) Changes to the topography of the Conservation Easement can be made only if the changes are for the environmental preservation of the Conservation Easement.

(d) The Conservation Easement shall be maintained at the sole cost and expense of the Owner of the Lot upon which the respective portion of the Conservation Easement is located.

The rights and easement of enjoyment created hereby shall be subject to the following:

(1) The right of the Developer and the Lot Owner to mortgage land and/or Lots titled in their name.

(2) The right of the Lot Owner to use full use and enjoyment of his or her Lot, subject to the restrictions herein.

Persons violating the above restrictions shall be penalized in accordance with the rules and regulations established by the Association.

ARTICLE VIII GENERAL PROVISIONS

Section 1. Notices. Any notices required to be given in writing to any person under the provisions of this Declaration shall be deemed to have been given when mailed, postpaid, to the last known address of such person provided, however, that a notice of "delinquency" of any payment due hereunder shall be made by certified or registered mail, return receipt requested or by telegram. The effective date of such notice shall be the date said notice is postmarked or the date the telegraph company received the message, as the case may be.

Section 2. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by, the Association, Developer or the Owner of any part of The Properties subject to the Declaration, their respective legal representatives, heirs, successors and assigns, for a term of 10 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by the then Owners of two-thirds of the Lots has been recorded agreeing to change said covenants and restrictions in whole or in part, at which time said covenants and restrictions shall continue in full force and effect as amended.

Section 3. Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any Covenant or Restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of Developer, the Association, any Owner, or the

OR2369-1205

Declaration and other documents governing The Properties, the correction of which would not materially impair the interest of any Owner or mortgage holder; or (g) enabling a title insurance company to issue title insurance coverage with respect to The Properties or any portion thereof. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Developer and/or to the Board of the Association to vote in favor of, make, or consent to a Subsequent Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting any portion of The Properties and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of the power to the Developer to vote in favor of or, make and record a Subsequent Amendment. To effect said amendment, Developer shall file a supplement to the Declaration setting forth the Subsequent Amendment which shall be signed by Developer and shall be effective upon the filing of the Subsequent Amendment with the Summit County Recorder.

The Developer, its successors or assigns shall be the entity for the interpretation of these Covenants and Restrictions.

Section 6. In the event the Owners or Association fail to collect assessments and otherwise function to perform its duties under these Covenants and Restrictions, the City of Macedonia shall have the right, but not the duty, to collect such assessments which should have been done by the Owners or the Association and as are necessary to perform the above duties and utilize such revenues to perform those functions not performed by the Owners or Association. For the purpose of collection and utilization, the City of Macedonia shall have the rights of the Developer or Association, but shall not be obligated in any way unless it undertakes to collect assessments.

IN WITNESS WHEREOF, the said undersigned Owners have hereunto set their names, as of the 28th day of January, 1997.

**SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:**

PFR LAND COMPANY

BY

PETER RZEPKA, Chairman

Printed Name: _____

BY:

HOWARD S. CILAPMAN

Assistant Secretary